

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FELIPE OTEZE FOWLKES

PLAINTIFF,

VS.

CA. NO. 05-CV-11749

(JLT)

KATHLEEN M. DENNEHY, ET AL.,

DEFENDANTS.

PLAINTIFF'S OPPOSITION TO DEFENDANTS
MOTION TO RECONSIDER:

PLAINTIFF, FELIPE OTEZE FOWLKES, PRO SE,
RESPECTFULLY REQUEST THAT THIS COURT DENY
defendants motion to RECONSIDER its July 26,
2006, ORDER, upon the grounds that:

1. The complaint which was served on the four
defendants named Dennehy, PEPE, NOLAN and
SPENCER, by U.S. MARSHAL ON MAY 12, 2006,
which defendants consider to be the amended
complaint is the operative pleading in this
action. (see pg. 4 of Court's July 26, 2006, order)
As pointed out to the Court in plaintiff's
"REQUEST TO EXCEED TEN PAGES IN SHOW CAUSE
RESPONSE" dated April 24, 2006, the defendants

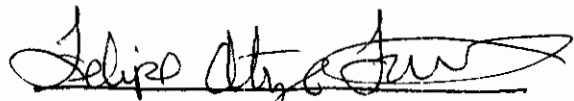
WERE NEVER SERVED WITH THE DEFECTIVE COMPLAINT. ON PAGE 22 OF MARCH 16, 2006, ORDER, THE COURT STATED THAT IF PLAINTIFF CURE THE DEFECTS IN THE ORIGINAL COMPLAINT, HE MUST EXPLAIN THE MODIFICATIONS. THE PLAINTIFF COMPLIED WITH THAT REQUIREMENT IN HIS "SHOW CAUSE WHY HIS CLAIMS SHOULD NOT BE DISMISSED AND WHY ADDITIONAL DEFENDANTS SHOULD BE ADDED AND SUMMONSES ISSUED ON THEM" DATED APRIL 24, 2006.

2. ON JUNE 20, 2006, WHEN DEFENDANTS BY THEIR COUNSEL, FILED A MOTION TO ENLARGE TIME TO RESPOND TO THE COMPLAINT, THEY COULD HAVE RAISED THE ARGUMENTS REGARDING THE DATE AND DIFFERENCES IN THE ORIGINAL AND AMENDED COMPLAINT BEFORE THE COURT ISSUED ITS JULY 26, 2006, ORDER. HOWEVER, SUCH ARGUMENTS WOULD HAVE BEEN BASELESS SINCE THE COURT HAD DIRECTED PLAINTIFF TO EXPLAIN THE MODIFICATIONS TO THE ORIGINAL COMPLAINT, WHICH PLAINTIFF HAS DONE. IN DOING SO, PLAINTIFF MET THE COURT'S REQUIREMENTS AND THE COURT PERMITTED THE AMENDED COMPLAINT TO PROCEED WITH RESPECT TO ALL CLAIMS AND ALL DEFENDANTS WITHOUT PREJUDICE TO ANY DEFENDANT'S RESPONSIVE PLEADINGS. THEREFORE, THE COURT'S ORDER SHOULD NOT BE DISTURBED NOR RECONSIDERED.

3. ON July 31, 2006, PLAINTIFF FORWARDED THE AMENDED COMPLAINT TO THE U.S. MARSHAL SERVICE FOR SERVICE ON 18 DEFENDANTS WHICH INCLUDED "C.O. Scott" AT CONCORD WHO "WAS TO BE NAMED"^(FN) DENNEHY, NOLAN, PEPE AND SPENCER WERE ALREADY SERVED ON MAY 12, 2006, WITH THE SAME AMENDED COMPLAINT. THEREFORE, PLAINTIFF DOES NOT OPPOSE DEFENDANTS REQUEST TO BE ALLOWED FORTY-FIVE DAYS TO FILE A DISPOSITIVE MOTION AFTER SERVICE OF ALL COMPLAINTS ON ALL DEFENDANTS ARE COMPLETED BY U.S. MARSHAL SERVICE BUT DOES OPPOSE DEFENDANT'S MOTION FOR COURT TO RECONSIDER ITS JULY 26, 2006, ORDER.

WHEREFORE, BASED ON THE FOREGOING REASONS AND THOSE REASONS ALREADY DECIDED AND SET FORTH IN COURT'S JULY 26, 2006, MEMO AND ORDER, THE DEFENDANTS MOTION THAT COURT RECONSIDER ITS JULY 26, 2006, MEMO AND ORDER, SHOULD BE DENIED.

DATED: August 2, 2006.


 FELIPE OTEZE FOWLKES[#] 684202
 SBCC: P.O. Box 8000
 Shirley, MA 01464

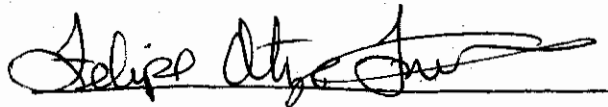
FN. JOHN MARSHAL, JR., ACTING Supt.
 OF CEDAR JUNCTION SHOULD HAVE
 RECEIVED A SUMMONS AND WAS
 SERVED A COMPLAINT.

-3- (CONT. ON REVERSE SIDE)

CERTIFICATE OF SERVICE

I, FELIPE OTEZE FOWLKES, PRO SE, PLAINTIFF, hereby certify that on this 2nd day of August 2006, I caused a copy of the foregoing "PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO RECONSIDER", to be served on Counsel for Defendants, DARYL F. GLAZER, LEGAL DIVISION, DEPARTMENT OF CORRECTION, 70 FRANKLIN STREET, Suite 600, Boston, MA 02110.

DATE: August 2, 2006.



FELIPE OTEZE FOWLKES
PRO SE, PLAINTIFF